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Security Council

Sixty-fifth year

Provisional

6356th meeting

Monday, 12 July 2010, 10 a.m.

New York

President:	Mrs. Ogwu	(Nigeria)
Members:	Austria	Mr. Mayr-Harting
	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mr. Moretti
	China	Mr. Long Zhou
	France	Mr. Bonne
	Gabon	Mr. Issoze-Ngondet
	Japan	Mr. Takasu
	Lebanon	Mr. Salam
	Mexico	Mr. Heller
	Russian Federation	Mr. Pankin
	Turkey	Mr. Çorman
	Uganda	Mr. Mugoya
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Ms. DiCarlo

Agenda

The situation concerning Iraq

Second report of the Secretary-General pursuant to paragraph 3 of resolution 1905 (2009) (S/2010/359)

Note verbale dated 18 June 2010 from the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council (S/2010/365)

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The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation concerning Iraq

Second report of the Secretary-General pursuant to paragraph 3 of resolution 1905 (2009) (S/2010/359)

Note verbale dated 18 June 2010 from the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council (S/2010/365)

The President: I should like to inform the Council that I have received a letter from the representative of Iraq, in which he requests that the Committee of Financial Experts of Iraq be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite Mr. Abdul Basit Turky Saed, head of that Committee, to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Abdul Basit Turky Saed (Iraq) took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Jun Yamazaki, Controller of the United Nations.

There being no objection, it is so decided.

I invite Mr. Yamazaki to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I should like to draw the attention of Council members to document S/2010/359, containing the second report of the Secretary-General pursuant to paragraph 3 of resolution 1905 (2009), and document S/2010/365, containing a note verbale dated 18 June 2010 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council and its enclosures.

At this meeting, the Security Council will hear briefings by Mr. Jun Yamazaki and Mr. Abdul Basit Turky Saed.

I now give the floor to Mr. Yamazaki.

Mr. Yamazaki: I thank you, Madam, for this opportunity to apprise the Council on the progress made in strengthening financial and administrative oversight of the current Development Fund for Iraq (DFI), on the legal issues and options to be considered to implement successor arrangements, and on the assessment of the Government of Iraq's progress in preparing for the successor arrangements for the DFI, as presented in the Secretary-General's report (S/2010/359) pursuant to paragraph 3 of resolution 1905 (2009).

With regard to the activities of the DFI and the International Advisory and Monitoring Board (IAMB), the IAMB, at its meeting in Paris on 28 and 29 April, concurred with the recommendation of the Government of Iraq to appoint PricewaterhouseCoopers to conduct the 2010 audit of the Development Fund. I am pleased to note that the Government of Iraq will follow the same selection procedure in 2011, and I understand that the Government of Iraq will continue to select an independent international auditor that will be responsible for auditing the successor entity to the DFI beyond next year as well.

In the absence of a fully operational comprehensive oil-metering system, it is not possible reliably to determine the volume of all export sales of petroleum, petroleum products and natural gas from Iraq for which proceeds are to be deposited in the oil proceeds receipts account and the DFI accounts. In this respect, I am concerned that there are delays in implementing the comprehensive oil-metering system, and I strongly urge the full and timely implementation of the system, as initially envisaged by the Government of Iraq.

I should like to recall that the Government of Iraq initially planned for the oil-metering system to become fully operational by the end of 2011, except for one State company, which will be completed by 2012. I

note the fact that the Board of the Extractive Industries Transparency Initiative (EITI) has accepted the application of Iraq to become a candidate country, and I encourage the Government of Iraq to complete compliance and validation by February 2012 to become an EITI-compliant country.

I turn now to the legal issues and options relating to the successor arrangements for the DFI. First, with respect to the obligatory payments to the United Nations Compensation Commission fund, I am pleased that the Government of Iraq has received confirmation from the Federal Reserve Bank of New York of continuation of the existing mechanism in place after 31 December 2010, and I note that the Government of Iraq will open a separate sub-account with the same bank, into which 5 per cent of revenues from oil exports will be transferred automatically.

Secondly, as to privileges and immunities of the DFI, in accordance with paragraph 22 of its resolution 1483 (2003), the Security Council accorded the DFI privileges and immunities equivalent to those enjoyed by the United Nations. From its inception in 2003, it was clearly understood that the DFI would enjoy such privileges and immunities for a limited and specified period of time. Therefore, once the DFI becomes a fully nationally owned and controlled fund, there is no legal basis for extending such privileges and immunities.

Thirdly, with respect to the Iraq escrow account and other transfers to the DFI, once all outstanding activities under the oil-for-food programme are concluded, and taking into account issues mentioned in the first report of the Secretary-General (S/2010/166) of 1 April 2010, all other remaining funds should be transferred from the Iraq escrow account to the DFI. In this respect, I welcome the work of the Iraqi ministerial committee that has reviewed all of the outstanding letters of credit and the committee's decision to pay 26 letters of credit. I look forward to receiving from the Government of Iraq the requisite confirmation of arrival documents for those letters of credit so that the Secretariat can proceed and process the payments to the respective beneficiaries.

Absent the receipt by the Secretariat of the aforementioned requisite confirmation of arrival documents, the Security Council has the option of cancelling the remaining letters of credit with outstanding claims of delivery, subject to the provision by the Government of Iraq of a comprehensive indemnity with regard to all activities of the Organization and its representatives and agents in connection with the oil-for-food programme since its inception.

With regard to the assessment of the progress of the Government of Iraq in preparing for successor arrangements for the DFI, I note that the Government of Iraq reports that measures have been implemented in accordance with the plan presented in its first quarterly report to the Security Council, included in document S/2010/308. However, work remains to be done to fully implement the action plan for the transition to successor arrangements for the DFI, and I look forward to keeping the Security Council informed on the Government of Iraq's progress in preparing for such arrangements.

This completes my briefing on the Secretary-General's report pursuant to paragraph 3 of resolution 1905 (2009). I will be happy to respond to any questions posed by members of the Council relating to the report.

The President: I thank Mr. Yamazaki for his briefing.

I now give the floor to Mr. Basit.

Mr. Basit (Iraq) (*spoke in Arabic*): It is my pleasure to make a few remarks on the report of the Government of Iraq that is before the Security Council(see S/2010/365, annex). Pursuant with paragraph 5 of resolution 1905 (2009), the Government of Iraq submitted its second quarterly report to the Security Council. The report adopts the same methodology of the first quarterly report (see S/2010/308, annex).

The Government of Iraq has affirmed in its previous and current reports its intention to adopt the same mechanism currently in use for the Development Fund for Iraq (DFI) in maintaining an account in which to deposit all receipts of export sales of Iraqi oil, and a sub-account in which the percentage for compensation will be transferred automatically. To fulfil the requirements of resolution 1905 (2009), the Government of Iraq has taken a number of actions concerning which we would like to state the following.

First, the ministerial committee charged with implementing resolution 1905 (2009) studied and reviewed the remaining letters of credit from the

United Nations oil-for-food programme as of 31 December 2009 and decided to pay 26. The relevant documents will be sent to the United Nations to make the payments. The Committee of Financial Experts followed up the reasons presented by the State entities relating to these controversial letters of credit, as their defences were focused on the lack of documentation related to the receipt of goods subject to the letters, in accordance with paragraph 25 of the memorandum of understanding signed with the United Nations in 1996 pursuant to resolution 986 (1995). The Board of Supreme Audit is still auditing the ministries in case any official documents related to the remaining letters of credit are available.

Secondly, with regard to debts inherited from the previous regime, the Minister of Finance of the Government of Iraq sent confirmation letters to his counterparts in the States outside the Paris Club that had not yet responded to calls for debt settlement. Since the Ministry of Finance sent the report of the Government of Iraq to the Council, it has received a positive response from the Government of Pakistan expressing its desire to discuss the restructuring of Iraq's debt. Negotiations held with Brazil in June are continuing and are expected to take some time due to several reasons, including the presidential elections scheduled for October. Initial negotiations were also held with Poland in June. Since the bulk of the remaining debt is owed to the Gulf Cooperation Council States, the Committee of Financial Experts believes that the assistance of the brotherly and friendly States may have a positive impact on implementation of the resolutions of the Arab summits issued in this regard.

With respect to commercial creditors, three British companies have responded to Iraq's call to purchase their debt. The Government of Iraq has demonstrated its serious intention to finalize those issues related to commercial creditors that have not yet registered claims, as well as the compensation issues it anticipates will be filed after immunities are removed from Iraqi funds. These will be finalized through legal contracts yet to be drafted, which will be drawn up as complete packages to settle these claims after scrutiny by Iraqi legal authorities and which the Government of Iraq intends to sign.

Regarding financial and administrative control over the current DFI, the Committee of Financial Experts found that the Government of Iraq took the following steps. First, based on a recommendati from the Committee, the Government of Iraq h signed a contract with PricewaterhouseCoopers for t 2010 DFI audit. The Committee of Financial Expe will continue to use the same methodology to audit t cash flows of successor accounts of the DFI subsequent fiscal years. In this regard, we wou stipulate that the number of ministries and entit unrelated to the ministries is 41, each of which h prepared a structural chart to submit to the legislati authorities for their consideration and adoption.

Secondly, the Committee of Financial Experts following up implementation of the oil metering a calibration system by the Ministry of Oil on a quarte basis, as shown in attachment 2 of the second quarte report of the Government of Iraq (see S/2010/3 annex), where a positive diversion appears in t export area and a negative diversion appears in t internal distribution area. This internal distributi network is not relevant to resolution 1483 (2003). T Committee of Financial Experts requested the D 2010 auditors, PricewaterhouseCoopers, to conduct special field audit to assess implementation of t metering system and to present a report to t International Advisory and Monitoring Board (IAM and the Committee during the next IAMB meeting be held in October.

Thirdly, relating to frozen Iraqi assets abroad, addition to the endeavours of the Ministry of Finar to establish records and a database on those assets, t ministerial committee charged with this task manag to obtain a verdict to recover $300 million in ass from Switzerland and €25 million in France, addition to other fixed assets. The follow-up contin to recover assets through legal means, including res to the Security Council Committee establish pursuant to resolution 1518 (2003).

The follow-up of the Committee of Financ Experts on the contacts made by the Government Iraq with international agencies and advisors h shown that the protection provided so far by exter parties has not achieved the level of the immunit provided by a Security Council resolution. As noted resolution 1483 (2003) and subsequent resolutions, t purpose of establishing the DFI and immunities Iraqi funds was to ensure the use of the oil export sa funds for the benefit of the Iraqi people. Su immunities granted by the Council have played important role in ensuring the use of those funds in

interest of the Iraqi people, as confirmed in paragraph 18 of the minutes of the IAMB's most recent meeting in 2010.

Despite the determination of the Iraqi Government authorities and relevant parties to implement resolution 1905 (2009), the Committee of Financial Experts found that the Council's support through the adoption of a résolution to extend the immunities for a further period of one year or less in order to accompany the establishment of the new successor mechanism to the DFI would help the Government of Iraq to implement that mechanism. Without that support, the Government may be unable to fulfil its internal or external obligations should a case arise by which Iraqi commercial or sovereign funds become attached through a court order resulting from a claim filed against the conduct of the previous regime.

At the same time, such an extension would assist the Committee of Financial Experts in completing its assigned tasks relating to successor arrangements for the DFI and the IAMB, and in ensuring that future mechanisms maintain this level of transparency and accountability in the sources and use of Iraqi public funds for the benefit of the Iraqi people. The extension would also coincide with the meetings to decide the successor arrangements for the DFI and the IAMB.

The President: I thank Mr. Basit for his briefing.

In accordance with the understanding reached in the Council's prior consultations, I now invite members to continue our discussion of the matter in a closed meeting.

The meeting was adjourned at 10.40 a.m.